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7 CITY OF LOS ANGELES

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
10

11 JONATHAN PELTZ and KATHLEEN  
12 GALLAGHER,

13 Plaintiffs,

14 v.

15 CITY OF LOS ANGELES, a municipal  
16 entity; CHIEF MICHEL MOORE, a  
public entity, and DOES 1 through 10,  
inclusive,

17 Defendants.  
18  
19

Case No. 2:22-CV-03106-HDV(AGR<sub>x</sub>)

**OPPOSITION TO PLAINTIFFS’  
MOTION IN LIMINE NO. 1 TO  
EXCLUDE EVIDENCE RELATED  
TO THE PROBABLE CAUSE FOR  
KATHLEEN GALLAGHER’S  
ARREST**

Hearing:

Date: April 24, 2025  
Time: 10:00 a.m.  
Ct. No.: 5B

20  
21 **I. INTRODUCTION AND STATEMENT OF FACTS**

22 Plaintiffs claim that without producing Officer Michelle Lopez, Defendant  
23 did not “produce any discovery, evidence, or testimony regarding the probable cause  
24 for Plaintiff[ Gallagher’s] arrest.” This is untrue. Defendant produced in discovery  
25 evidence that protesters spray painted city property, surrounded and attacked and  
26 damaged a sound truck, and shined a laser into an officer’s eyes. These facts are  
27 undisputed. [Dkt. 64-3 at 2, 3.] Defendant will also present evidence that the crowd  
28 used numerous high intensity strobe lights, directly aiming them at officers on the

1 skirmish line—many from only a couple feet away. This is captured on video  
2 produced in discovery along with comments from the crowd such as “how do you  
3 like the lights on you?” and “[get or look] them in the fucking eyes,” along with  
4 other evidence that the strobe lights were purposely aimed at the officers’ eyes. As  
5 testified to at deposition by Captain Richard Stabile, the strobe lights had a blinding  
6 effect on the officers, and their impaired vision inhibited their ability to do their  
7 jobs, i.e. observe the crowd and defend themselves. Defendant will present evidence  
8 that the high powered strobe lights had a disorienting and dizzying effect on the  
9 officers, and that officers on the skirmish line asked to be relieved due to the strobe  
10 lights. Defendant will also present evidence that objects (full soda can, full and  
11 frozen water bottles, and glass bottles were thrown by members of the crowd).  
12 Multiples officers, **as well as Plaintiff Peltz**, testified to objects being thrown at the  
13 skirmish line. It is undisputed that an amplified announcement was made directing  
14 the crowd to back away from the officers and to stop flashing lights and warning the  
15 crowd that an unlawful assembly would be declared if the crowd continued to act  
16 unlawfully. [Dkt. 64-3 at 5.] It is undisputed that the crowd did not comply with  
17 these orders. [*Id.*] Defendant will further present evidence that arrest teams were  
18 organized to target and detain the individuals who were using strobe lights, but the  
19 protesters at the front of the crowd locked their arms together and unlawfully  
20 prevented officers from accessing the crowd behind them. Plaintiff Peltz testified to  
21 seeing the crowd link arms.

22 Captain Stabile will testify that he made the decision to declare an unlawful  
23 assembly. It is undisputed (and records show) that between approximately 7:30 p.m.  
24 and 8:10 p.m., the dispersal order: was read from a sound truck no less than five  
25 times in English and Spanish, directed people to leave the area, gave exit routes,  
26 warned that everyone who failed to disperse would be subject to arrest, and provided  
27  
28

1 the Crespo Area location.<sup>1</sup> [Dkt. 64-3 at 6.] Video evidence produced during  
2 discovery shows that after the dispersal orders, many people remained, and the  
3 strobe lights continued to be used. **Both Plaintiffs** testified about an officer with a  
4 bullhorn walking amongst them repeatedly directing members of the media to  
5 immediately disperse to the north. Plaintiffs' complaint also states that they knew  
6 LAPD was telling reporters to go to the media staging area. [Compl. ¶ 37.] When  
7 the crowd did not disperse, Captain Stabile ordered the skirmish line to push the  
8 crowd north in another attempt to disperse them, and the crowd responded by  
9 linking arms, which prevented any movement north.<sup>2</sup> It is undisputed that both  
10 Plaintiffs knew the dispersal order was given and did not obey the dispersal order by  
11 leaving the area. [Dkt 64-3 at 8.] It is undisputed that at approximately 8:15 p.m.,  
12 Captain Stabile declared everyone in the crowd under arrest for violation of  
13 California Penal Code section 409 - Failure to Disperse. [Dkt. 64-3 at 8.] Plaintiffs  
14 testified that they were still in the area where the unlawful assembly was declared at  
15 the time arrests began, and it is further undisputed that officers arrested people in  
16 this area who failed to obey the dispersal orders. [Dkt. 64-3 at 9.] In sum, all of the  
17 above supports a finding of probable cause for Plaintiff Gallagher's arrest.

18 Plaintiffs now assert that because they did not depose Officer Lopez (the  
19 officer Plaintiffs now believe handcuffed Ms. Gallagher), the overwhelming  
20 evidence supporting probable cause for Plaintiff Gallagher's arrest (including, her  
21 own testimony) should be excluded and that Defendant should be precluded *from*  
22 *even making the argument* that there was probable cause for her arrest.<sup>3</sup> Oddly,

23

24 <sup>1</sup> Plaintiffs dispute whether the Crespo location had an adequate view, but that  
25 dispute is immaterial to the issues to be tried.

26 <sup>2</sup> Plaintiffs do not dispute that the crowd linked arms but erroneously assert (without  
27 any citation to supportive evidence) that the LAPD was also preventing movement  
28 north at this time. [Dkt. 64-3 at 7.]

28 <sup>3</sup> To the extent Plaintiffs are attempting to adjudicate the issue of probable cause, a

1 Plaintiffs also move to exclude Officer Lopez from testifying, though Defendant did  
2 not name Officer Lopez on the joint witness list.<sup>4</sup> [Dkt. 78.]

3 **II. ARGUMENT**

4 **A. Plaintiffs’ Cited Authority Does Not Support The Relief They Are**  
5 **Requesting And, In Fact, Supports Defendant’s Position.**

6 In *Dubner*, the lower court dismissed the plaintiff’s claim against individual  
7 officers because she could not identify her arresting officer and therefore could not  
8 prove the arrest was unlawful. *Dubner v. City and Cnty. of San Francisco*, 266 F.3d  
9 959, 964 (C.A.9 (Cal.), 2001). Unlike Plaintiff Gallagher, the plaintiff in *Dubner* did  
10 not know who arrested her. *Id.* at 963. The Ninth Circuit found that the plaintiff did  
11 not need to prove the identify of her arresting officer because, “[a]lthough the  
12 plaintiff bears the burden of proof on the issue of unlawful arrest, she can make a  
13 prima facie case simply by showing that the arrest was conducted without a valid  
14 warrant. At that point, the burden shifts to the defendant to provide some evidence  
15 that the arresting officers had probable cause for a warrantless arrest.” *Id.* at 965. The  
16 court then stated

17 Probable cause exists when, under the totality of the circumstances  
18 known to the arresting officers (**or within the knowledge of the other**  
19 **officers at the scene**), a prudent person would believe the suspect had  
20 committed a crime . . . This is an unusual case because we cannot  
21 determine what the arresting officers knew at the time. Therefore, **we**  
22 **must piece together the totality of circumstances known to the**  
23 **officers at the scene based on their testimony, [the plaintiff’s] own**  
24 **testimony, and the undisputed facts at trial.**

25 *Id.* at 966 (emphasis added) (internal citation omitted). Defendant intends to do just

26 motion in limine is not the appropriate vehicle for doing so. *See Sunset Landmark*  
27 *Investment, LLC v. Chubb Custom Insurance Company*, No. CV 17-4021-MWF  
28 (MRWx), 2019 WL 4451229, \*3 (C.D. Cal. May 16, 2019).

<sup>4</sup> It should be noted that, with the exception of Chief Michel Moore who was  
dismissed, Plaintiffs did not name any individual officers as defendants, including  
Plaintiff Peltz’s arresting officer, Officer Wolleck, who they did depose. [Dkt. 35.]  
Defense counsel never represented Officer Lopez.

1 that—present the totality of circumstances known to the officers at the scene based  
2 on their testimony, the Plaintiffs’ own testimony, and other evidence.

3 **B. Plaintiffs Were Aware of Officer Lopez’s Name and Badge**  
4 **Number As of March 25, 2021**

5 Plaintiff Gallagher received a Notice to Appear on the date of her arrest,  
6 March 25, 2021. Ex. A. Both parties produced this Notice during discovery; Plaintiff  
7 Gallagher produced it in October 2022. This Notice states Plaintiff Gallagher’s  
8 arresting officer was M. Lopez, badge number 33482. *Id.* It also states Ms.  
9 Gallagher was arrested for violation of “409 PC Remained at scene after police  
10 declared an unlawful assembly.” *Id.* The Notice is signed by Plaintiff Gallagher. *Id.*  
11 In July 2023, Plaintiff Gallagher identified “LAPD Officer Michelle Lopez [badge  
12 number]” in her interrogatory response as her arresting officer. [Dkt. 64-17 at 5.]  
13 Also in July 2023, the parties filed a joint stipulation to extend time to add parties  
14 which identified Officer Lopez as Plaintiff Gallagher’s arresting officer. [Dkt. 50.]  
15 Plaintiffs also named Officer Lopez in their Rule 26 disclosures. Further, in  
16 response to defense counsel asking Plaintiff Gallagher to describe the officer who  
17 arrested her, she testified: “I saw that her badge said Lopez. She was a Latina  
18 woman who was, I think, a little bit shorter than me with dark hair . . .” She also  
19 testified that Officer Lopez filled in her (Gallagher’s) personal information on a card  
20 and told her she was being arrested because the “[police] issued a dispersal order,  
21 and [she] did not leave.” [Dkt. 64-14 at 30 of 33:14-31:15.] In other words, **it is**  
22 **undisputed that Plaintiff Gallagher knew her arresting officer was Officer**  
23 **Lopez and had her badge number no later than March 25, 2021.**

24 Plaintiffs claim that they “never had the chance to depose” Officer Lopez.  
25 Plaintiffs filed their complaint on May 9, 2022, but according to their brief, did not  
26 attempt to contact the LAPD for Officer Lopez’s whereabouts until mid-August  
27 2023, when she was apparently on leave. [Dkt. 82 at 5 of 9:3-5.] Plaintiffs describe  
28 making calls to the LAPD to determine if Officer Lopez was back from leave

1 between August 31 and October 2023. [*Id.* at 5:7-22.] The discovery cut-off was  
2 March 2024. [Dkt 56.] Plaintiffs do not claim that they ever actually served a  
3 subpoena on Officer Lopez at any point in time. The supporting declaration states  
4 only that they called the LAPD to ascertain Officer Lopez’s whereabouts and then  
5 leave status. [Dkt. 82-1 at 2.]

6 **C. Plaintiffs Make Spurious Claims and Misleading Comments.**

7 Plaintiffs falsely claim that Defendant “took the position” and “misled  
8 Plaintiffs by claiming” Officer Leslie Brenner arrested Plaintiff Gallagher. Plaintiffs  
9 notably provide no evidence to support this assertion. Plaintiffs refer to Officer  
10 Wolleck’s testimony, in which he stated he approached Plaintiff Peltz with Sgt.  
11 Brenner, he recalled Plaintiffs Gallagher and Peltz were standing together,  
12 “[t]herefore [he] deduct[ed] that they would have been taken into custody at the  
13 same time,” and he “believe[d]” Sgt. Brenner arrested Plaintiff Gallagher. Plaintiffs’  
14 Ex. 10 at 154:8-21. Officer Wolleck is not a named defendant. He also was not  
15 deposed as a 30(b)(6) witness and therefore was not testifying on behalf of the City.  
16 His testimony as to what he recalled, deduced, and believed regarding someone  
17 else’s arrest over two years prior does not represent the City’s position, nor does it  
18 insinuate the City was purposely misleading Plaintiffs.

19 Plaintiffs note that Officer Lopez was not included on Joint Rule 26(f)  
20 Reports. As *joint* reports, Plaintiff had the opportunity to add Officer Lopez and  
21 Officer Wolleck, given Plaintiffs were aware of these names, but they did not do so.

22 Plaintiffs take issue with Defendant’s August 18, 2022 Initial Disclosures but  
23 fail to mention that Defendant identified, amongst others, “Officers of the Los  
24 Angeles Police Department identified in Personnel Check-In Lists and Activity Logs  
25 relating to the events occurring on March 25, 2021 in the area of Echo Park Lake . .  
26 .” Plaintiffs’ Ex. 2. Defendant produced these Check-In Lists and Activity Logs as  
27 part of discovery.

28 Plaintiffs further take issue with Defendant’s responses to Interrogatories



1 Nos. 1 and 3. In regards to the January 16, 2024 letter, Plaintiffs assert that they  
2 limited Interrogatory No. 1 to refer to Plaintiffs, which is untrue. [Dkt. 82 at 5:28,  
3 Plaintiff’s Ex. 13 at 1.] In the letter, Plaintiffs’ materially changed the request in  
4 Interrogatory No. 1 to identify every City employee who “interacted with” a  
5 journalist, including self-identifying journalists, along with their job title and a  
6 description of the interaction. From defense counsel’s notes of the meet and confer  
7 call following this letter, defense counsel noted that the request was materially  
8 changed, “interacted with” is vague, and the request was overbroad and unduly  
9 burdensome as it would now require review of everyone’s body-worn camera  
10 footage over the course of the day. From defense counsel’s notes, Plaintiffs’ counsel  
11 agreed to limit the request, however, Plaintiffs’ counsel did not contact Defendant  
12 regarding this interrogatory again.

13 For Interrogatory No. 3, Defendant provided the police station “to which  
14 [Officer Lopez] was most recently assigned.” Plaintiffs’ Ex. 12. While Plaintiffs  
15 claim this is an address they already had, they did not seek to compel Officer  
16 Lopez’s personal home address.

17 **D. Plaintiffs Should Also Be Limited to Their Disclosures**

18 To the extent Plaintiffs are claiming that the parties are limited to their  
19 discovery responses, *they should apply the same standards to themselves*. Plaintiffs  
20 presented numerous arguments and documents for the first time in opposition to  
21 summary judgment that would have been responsive to Defendant’s discovery  
22 requests. For instance, Plaintiffs claimed for the first time in their opposition that  
23 there was a failure to train its officers to 1) adequately plan for protests, 2) take a  
24 “proactive approach,” and 3) isolate small violent groups from larger peaceful  
25 protestors. Plaintiffs never before alleged that the City failed to train its officers  
26 regarding these things. Their discovery responses also made no attempt to describe  
27 the same or similar prior incidents to show a specific unlawful custom and practice,  
28 despite discovery requests for facts and documents in support of their *Monell* claim.

1 [Dkt. 64-17 at 8 (Response to Interrogatory No. 10); Dkt. 64-18 at 8 (Response to  
2 Interrogatory No. 10)]. As another example, while Plaintiffs relied on the Chaleff  
3 Report in their opposition to Defendant's motion for summary judgment to make  
4 these claims, they did not include information from the "Chaleff Report" in their  
5 discovery responses or produce this report/evidence in this report, again, despite  
6 discovery requests for information and documents in support of their *Monell* claim.  
7 [*Id.*]

8 **III. CONCLUSION**

9 Based on the foregoing, Defendant respectfully requests that Plaintiffs'  
10 Motion in Limine No. 1 be denied.

11  
12 Dated: April 17, 2025

BURKE, WILLIAMS & SORESENSEN, LLP

13  
14  
15 By: /s/ Kyle Anne Piasecki  
16 Charles E. Slyngstad  
17 Brian S. Ginter  
18 Kyle Anne Piasecki  
19 Attorneys for Defendant  
20 CITY OF LOS ANGELES

21 **CERTIFICATE OF COMPLIANCE**

22 The undersigned counsel of record for Defendants certifies that this brief  
23 contains 2,467 words, which complies with the word limit of L.R. 11-6.1.



1 Dated: April 17, 2025

BURKE, WILLIAMS & SORESENSEN, LLP

2  
3 By: /s/ Kyle Anne Piasecki

4 Charles E. Slyngstad

5 Brian S. Ginter

6 Kyle Anne Piasecki

7 Attorneys for Defendant

8 CITY OF LOS ANGELES

# **EXHIBIT “A”**

LOS ANGELES POLICE DEPARTMENT  
CITY OF LOS ANGELES  
**NOTICE TO APPEAR**  
INFRACCIÓN  
NONTRAFIC  
**F37486**  
(Citation No.)

Date of Violation: 3/25/21 Time: 4:41 PM Day of Week: S M T W T F S Arrest DR No: 2102-0776 Evidence DR No.

Name (First, Middle, Last): KATHLEEN MARGARET GALTAKER  
Address: 3333 3RD MARINO ST #7  
City: LOS ANGELES State: CA ZIP Code: 90006

Driver Lic. No.: Y72489SD State: CA Class: C Age: 26 Birth Date: 3/30/94

Sex: F Hair: BRN Eyes: SOY Height: 504 Weight: 115 Race: W Other Description:

Code: 409 PC Remaining at scene M 1

After Police Detained and Unlawful Assembly M 1

Location of Violation(s): PARK / CEMORYNE City and County of Los Angeles

Comments (Including ID number): 0218 Booking Required (see reverse)

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Y. Chtol M. LOPEZ 37818 4857 33482 8857

Arresting or Citing Officer: M. LOPEZ 33482 8857

Name of Arresting Officer, if different from Citing Officer: Serial No. Dates Of

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.

X Signature: [Signature]

WHEN: ON THE DATE: 3/25/21 Time: 0830 AM PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

WHERE:

Metropolitan, 1945 South Hill Street, Los Angeles, 90007

Long Beach, 275 Magnolia Avenue, Long Beach, 90802

Van Nuys, 14400 Erwin Street Mall, Van Nuys, 91401

San Fernando, 900 Third Street, San Fernando, 91340

Chatsworth, 9425 Parfield Avenue, Chatsworth, 91311

Airport, 11701 South La Cienega Boulevard, Los Angeles, 90045

East Los Angeles, 4848 E. Civic Center Way, Los Angeles, 90022

Beverly Hills, 9355 Burton Way, Beverly Hills, 90210

TO BE NOTIFIED COURT CLERK

Notice to Appear form approved by the Judicial Council of California. FORM 05-02 02/06/14

RELEASE FROM CUSTODY REPORT CONTINUATION

COMBINED ITEM #, QUANTITY, DESCRIPTION  
EVID. RPT. 10 10.00  
ISSUED  
TION BKO.

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TO (IF MULT)

NAME DOB ADDRESS ZIP DAY PHONE

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Admonition of Rights was read verbatim per Form 15.03.00 by:

MINIARY DRUG TEST QUANTITY/NET WEIGHT SUPR./INV. OFFICER TESTING OFFICER WITNESSING

JUSTICE INCONCLUSIVE

ADDITIONAL EVIDENTS, CO-ARRESTEES, SOURCE OF ACTIVITY, OBSERVATIONS, ARREST, RFC, EVIDENCE, ADDITIONAL

INC # 21032500000090

See Airt RPT for Narrative

P SHEET ATTACHED YES NO

SEE NARRATIVE

APPROVING SUPERVISOR

Det. S. Kim #32464

DATE & TIME REPRODUCED

4/23/21 1930

ARE

2/34

CLERK